SB CIVIL MISC. APPEAL NO. 2186/2005
(BABLI & ORS v HARI LAL & ANR..)

HON'BLE MR. JUSTICE R.S. CHAUHAN

DATE OF ORDER:

Mr. V.K. Jain for the appellant.

In order to seek enhancement of the compensation, the claimants-appellants have challenged the award dated 4.5.05 passed by the Motor Accident Claims Tribunal No.2, Tonk whereby a compensation of Rs. 3,15,600/- has been granted for the death of Bahadur Singh in an accident.

The brief facts of the case are that on 6.9.03 on the National Highway No. 12 about 3 Kms away from Devli, Bahadur singh was travelling in a truck, bearing Registration No. RJ 20 – P 3024. Suddenly from the opposite side a truck, bearing Registration No. RJ 32 – G 1275, being driven in a rash and negligent manner, collided with Bahadur Singh's truck. Consequently, while Bahadur Singh expired on the spot, another person travelling in the said truck Jor Singh sustained injuries. In order to seek compensation, the claimants filed a claim petition before the learned Tribunal, wherein they stated that deceased Bahadur Singh was 28 years old, was a

labourer, and was earning Rs. 4,000/- per month. Due to his sudden death they have been left to fend for themselves. In order to prove their case, they examined two witnesses and submitted nineteen documents. The non-claimants, on the other hand, neither examined any witness, nor submitted any document. After going through the oral and documentary evidence the Tribunal was pleased to grant an award of Rs. 3,15,600/-. Since the claimants are aggrieved by the said award, they have filed the present appeal before us.

Mr. V.K. Jain, the learned counsel for the appellant, has contended that although the deceased was earning Rs. 4,000/- per month, the learned Tribunal, without assigning any reason, has taken his income to be Rs. 2,000/- per month. Therefore, the salary has been wrongly estimated. Secondly that although the deceased was 28 years old, yet the learned Tribunal has taken his age as 32 years. Therefore, the very basis of the compensation is misplaced.

We have heard the learned counsel and have perused the impugned award.

Admittedly the deceased was a labourer. According to minimum wages prevalent under the Minimum Wages Act a semi-

skilled person was entitled to Rs. 68/- per day. Since the claimants have not submitted any documentary evidence to prove the actual salary received by the deceased, the learned Tribunal was certainly justified in relying upon the minimum wages payable to the semi-skilled person in the year 2003. under the Minimum Wages Act as the basis Hence, the learned Tribunal has rightly concluded that the deceased was earning Rs. 68/- per day. Hence, his monthly income would be about Rs. 2,100/-. Therefore, the income taken and estimated by the learned Tribunal is justified on the basis of Minimum Wages Act. There is, thus, nothing illegal about the Tribunal's taking loss and dependency to be Rs.2,100/- per month. Hence, the first contention of the learned counsel is meritless.

Although the claimants have alleged the age of the deceased to be 28 years, yet according to the Post-Mortem Report he is shown to be a person of 32 years of age. Therefore, basing the age of the deceased on the Post-Mortem report, the learned Tribunal has rightly concluded that the deceased was 32 years old at the time of his death. It has correctly applied the multiplier of 17 as the said multiplier is in accordance with Second Schedule of the Motor Vehicle Act, 1988. Even the payment of the non-pecuniary losses is

just and reasonable. Therefore, we see no reason to interfere with the impugned award.

In the result, the appeal has no merit. It is, hereby, dismissed.

(R.S. CHAUHAN)J.

mrg.